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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/643,106	08/21/2000	Mark O. Worthington	18950-30	7975

7590 06/05/2003

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EXAMINER

CHU, KIM KWOK

ART UNIT PAPER NUMBER

2653

DATE MAILED: 06/05/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/643,106	WORTHINGTON ET AL.	
	Examiner Kim-Kwok CHU	Art Unit 2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on Amendment filed on 2/28/03.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-6 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 4 is/are allowed.

6) Claim(s) 1-3,5 and 6 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

**Claim Rejections - 35 USC § 102**

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless -- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.*

2. Claim 3 is rejected under 35 U.S.C. § 102(e) as being anticipated by Okanishi (U.S. Patent 6,195,325).

Okanishi teaches a method for acquiring data from an optical disc having all the steps as recited in claim 3. For example, Okanishi teaches the following:

(a) as in claim 3, the optical disc 1 having physical synchronization (servo) markers 5 and 6 (Figs. 5A and 5 b; column 6, lines 43 and 44);

(b) as in claim 3, detecting at least one physical synchronization marker (clock marks) on the optical disc 1 (Fig. 17; column 6, lines 38-45);

(c) as in claim 3, reading data from the optical disc 1 in response to detecting the at least one physical synchronization marker (Fig. 17); and

(d) as in claim 3, determining possible presence of an analyte material (pre-grooves and wobble grooves) by analyzing

the data read from the optical disc (Fig. 17; analyte such as a wobble groove is detected).

3. Claims 1, 2, 5 and 6 rejected under 35 U.S.C. § 102(e) as being anticipated by Okanishi (U.S. Patent 6,195,325).

Okanishi teaches an apparatus for acquiring data from an optical disc having all the elements and means as recited in claims 5 and 6. For example, Okanishi teaches the following:

(a) as in claim 5, data is acquired as physical synchronization (servo) markers (Figs. 5B and 17; markers 5 and 6 contain synchronization clock data; column 6, lines 43 and 44);

(b) as in claim 5, an optical disc drive capable of reading operational and non-operational structures from an optical disc assembly (Fig. 17, operational structures are servo signals contained in the wobble grooves, non-operational structures are user data);

(c) as in claim 5, a photodetector 12a for detecting at least one physical synchronization marker 5 and 6 on the optical disc assembly 1 (Figs. 5B and 17);

(d) as in claim 5, the physical synchronization marker (clock mark) adapted to enable a counting of data points (track number) to determine a radial position of a respective data point associated with the optical disc (Fig. 21; step S-3;

column 15, lines 55-67, column 16, line 1); and

(e) as in claim 6, the optical disc assembly is selected from a group comprising an optical disc 1, a cover (protective layer, and a combination (Figs. 5A and 5B; a cover such as a protective layer is an inherent feature).

4. Claims 1 and 2 have limitations similar to those treated in the above rejection, and are met by the reference as discussed above.

***Allowable Subject Matter***

5. Claim 4 is allowable over prior art.

6. The following is an Examiner's statement of reasons for the indication of allowable subject matter:

As in claim 4, the prior art of record fails to teach or fairly suggest an optical disc in combination with an cover having physical synchronization markers having following steps:

- (a) detecting at least one physical synchronization marker on the cover;
- (b) reading data from the optical disc in response to detecting the at least one physical synchronization marker on the cover; and
- (c) determining possible presence of an analyte material by analyzing the data read from the optical disc.

The features indicated above, in combination with the other elements of the claims, are not anticipated by, nor made obvious over, the prior art of record.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hayashi (6,292,318) is pertinent because Hayashi teaches a radial position calculating means.

Takeda et al. (5,761,165) is pertinent because Takeda teaches a radial position detecting means.

8. *Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).*

*A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action*

.9. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks Washington, D.C.  
20231 Or faxed to:

(703) 872-9314 (for formal communications intended for entry. Or:

(703) 746-6909, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim CHU whose telephone number is (703) 305-3032 between 9:30 am to 6:00 pm, Monday to Friday.

WC 8/18/03

Kim-Kwok CHU  
Examiner AU2653  
May 15, 2003

(703) 305-3032

*William Korzuch*  
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